

**Executive Summary – Enforcement Matter – Case No. 42485**  
**Marcelino Lopez, Sr. dba Lantera Lopez**  
**RN106164551**  
**Docket No. 2011-1625-MSW-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MSW

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Lantera Lopez, 5825 North Veterans Boulevard, Pharr, Hidalgo County

**Type of Operation:**

Retail tire shop

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 20, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$22,500

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$21,300

**Total Paid to General Revenue:** \$100

**Total Due to General Revenue:** \$1,100

Payment Plan: 11 payments of \$100 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42485**  
**Marcelino Lopez, Sr. dba Lantera Lopez**  
**RN106164551**  
**Docket No. 2011-1625-MSW-E**

***Investigation Information***

**Complaint Date(s):** May 3, 2011

**Complaint Information:** Allegedly, the Respondent was storing too many tires on-site.

**Date(s) of Investigation:** June 16, 2011

**Date(s) of NOE(s):** August 17, 2011

***Violation Information***

1. Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, the Respondent disposed of approximately 1,500 cubic yards of MSW at the Facility [30 TEX. ADMIN. CODE § 330.15(c)].
2. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground. Specifically, approximately 15,000 scrap tires were stored on the ground [30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Cease disposing of any additional MSW at the Facility, including but not limited to scrap tires and scrap tire pieces;
- b. Within 30 days, reduce and maintain the number of scrap tires being stored on-site to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers, or
- c. Within 30 days, obtain a scrap tire registration, and
- d. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 42485**  
**Marcelino Lopez, Sr. dba Lantera Lopez**  
**RN106164551**  
**Docket No. 2011-1625-MSW-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Andrea Park, Enforcement Division,  
Enforcement Team 6, MC 128, (512) 239-4575; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Marcelino G. Lopez Sr., Owner, Lantera Lopez, 5825 North Veterans  
Boulevard, Pharr, Texas 78577

**Respondent's Attorney:** N/A



<b>DATES</b>	<b>Assigned</b>	22-Aug-2011	<b>Screening</b>	1-Sep-2011	<b>EPA Due</b>	
	<b>PCW</b>	8-Sep-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Marcelino Lopez, Sr. dba Lantera Lopez
<b>Reg. Ent. Ref. No.</b>	RN106164551
<b>Facility/Site Region</b>	15-Harlingen <span style="float: right;"><b>Major/Minor Source</b> Major</span>

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	42485
<b>Docket No.</b>	2011-1625-MSW-E
<b>Media Program(s)</b>	Waste Tires
<b>Multi-Media</b>	Municipal Solid Waste
<b>No. of Violations</b>	2
<b>Order Type</b>	1660
<b>Government/Non-Profit</b>	No
<b>Enf. Coordinator</b>	Andrea Park
<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b> \$0 <b>Maximum</b> \$10,000	

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$22,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b> <span style="float: right;"><b>0.0%</b> Enhancement</span> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: No adjustment for compliance history. </div>	<b>Subtotals 2, 3, &amp; 7</b> \$0
<b>Culpability</b> <span style="float: right;"><b>0.0%</b> Enhancement</span> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: The Respondent does not meet the culpability criteria. </div>	<b>Subtotal 4</b> \$0
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$0
<b>Economic Benefit</b> <span style="float: right;"><b>0.0%</b> Enhancement*</span> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 40%;"> Total EB Amounts \$945  Approx. Cost of Compliance \$23,785 </div> <div style="width: 50%; font-size: x-small;"> *Capped at the Total EB \$ Amount </div> </div>	<b>Subtotal 6</b> \$0
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$22,500
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> <span style="float: right;"><b>0.0%</b></span> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: </div>	<b>Adjustment</b> \$0
	<b>Final Penalty Amount</b> \$22,500
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$22,500
<b>DEFERRAL</b> <span style="float: right;"><b>20.0%</b> Reduction</span> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: Deferral offered for expedited settlement. </div>	<b>Adjustment</b> -\$4,500
<b>PAYABLE PENALTY</b>	<b>\$18,000</b>

Screening Date 1-Sep-2011

Docket No. 2011-1625-MSW-E

PCW

Respondent Marcelino Lopez, Sr. dba Lantera Lopez

Policy Revision 2 (September 2002)

Case ID No. 42485

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106164551

Media [Statute] Waste Tires

Enf. Coordinator Andrea Park

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 1-Sep-2011

Docket No. 2011-1625-MSW-E

PCW

Respondent Marcelino Lopez, Sr. dba Lantera Lopez

Policy Revision 2 (September 2002)

Case ID No. 42485

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106164551

Media [Statute] Waste Tires

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, the Respondent disposed of approximately 1,500 cubic yards of MSW at the Facility.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 50%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

## Violation Events

Number of Violation Events 3

77 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three monthly events are recommended from the June 16, 2011 investigation date to the September 1, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$548

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

# Economic Benefit Worksheet

**Respondent** Marcelino Lopez, Sr. dba Lantera Lopez  
**Case ID No.** 42485  
**Reg. Ent. Reference No.** RN106164551  
**Media** Waste Tires  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$13,785	16-Jun-2011	1-Apr-2012	0.79	\$548	n/a	\$548
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 1,500 cubic yards of MSW at an authorized facility. The date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$13,785

**TOTAL**

\$548



Screening Date 1-Sep-2011

Docket No. 2011-1625-MSW-E

PCW

Respondent Marcelino Lopez, Sr. dba Lantera Lopez

Policy Revision 2 (September 2002)

Case ID No. 42485

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106164551

Media [Statute] Waste Tires

Enf. Coordinator Andrea Park

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 328.56(d)(2) and 328.60(a)

Violation Description

Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground. Specifically, approximately 15,000 scrap tires were stored on the ground.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events

3

77

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the June 16, 2011 investigation date to the September 1, 2011 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$397

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** Marcelino Lopez, Sr. dba Lantera Lopez  
**Case ID No.** 42485  
**Reg. Ent. Reference No.** RN106164551  
**Media** Waste Tires  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	16-Jun-2011	1-Apr-2012	0.79	\$397	n/a	\$397
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a scrap tire storage facility. The date required is the date of the investigation and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$397

## Compliance History

Customer/Respondent/Owner-Operator:	CN603871153	LOPEZ, MARCELINO	Classification:	Rating:
Regulated Entity:	RN106164551	LANTERA LOPEZ	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED		ID NUMBER	455150205
Location:	5825 N VETERANS BLVD, PHARR, TX, 78577			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	August 30, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 30, 2006 to August 30, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Park Phone: (512) 239-4575

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?  
N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?  
N/A
5. When did the change(s) in owner or operator occur?  
N/A
- 6.

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARCELINO LOPEZ, SR. DBA  
LANTERA LOPEZ  
RN106164551**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1625-MSW-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Marcelino Lopez, Sr. dba Lantera Lopez ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a retail tire shop at 5825 North Veterans Boulevard in Pharr, Hidalgo County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 22, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Five Hundred Dollars (\$22,500) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Twenty-One Thousand Three Hundred Dollars (\$21,300) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of One Thousand One Hundred Dollars (\$1,100) of the administrative penalty shall be payable in 11 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 16, 2011.

Specifically, the Respondent disposed of approximately 1,500 cubic yards of MSW at the Facility.

2. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a), as documented during an investigation conducted on June 16, 2011. Specifically, approximately 15,000 scrap tires were stored on the ground.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Marcelino Lopez, Sr. dba Lantera Lopez, Docket No. 2011-1625-MSW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease disposing of any additional MSW at the Facility, including but not limited to scrap tires and scrap tire pieces;
  - b. Within 30 days after the effective date of this Agreed Order, reduce and maintain the number of scrap tires being stored on-site to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60; or
  - c. Within 30 days after the effective date of this Agreed Order, obtain a scrap tire registration, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60; and
  - d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. or 2.c. The certification shall be

notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1)



enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Dawkins  
For the Executive Director

8/10/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Marcelino G Lopez  
Signature

5/21/12  
Date

marcelino G Lopez  
Name (Printed or typed)  
Authorized Representative of  
Marcelino Lopez, Sr. dba Lantera Lopez

owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.